IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

LA.App..No. 331 of 2003(C)

LAR.34/1992 of ADDL.SUB COURT, KOTTAYAM
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APPELLANT: RESPONDENT NO.1

STATE OF KERALA

BY GOVERNMENT PLEADER SMT. K.R.DEEPA

RESPONDENTS: CLAIMANT/ADD.2ND RESPONDENT
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1. LEELAMANI W/O. MAHADEVAN PILLAI,
PUNNAPARAMPIL, CHIRAKKADAVU VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT

2. K.N.D.NAIR S/O. K.NEELAKANTA PILLAI,
SUPERINTENDENT OF POST OFICES, CHANGANACHERRY.

R2 BY ADV. SRI.S.KRISHNAMOORTHY
R1 BY SRI.M.NARENDRA KUMAR
SRI.SALISH ARAVINDAKSHAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

I.A.2732/2005 IN LAA 331 OF 2003

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DISMISSED.

19.9.2007

Id/- KURIAN JOSEPH, JUDGE.
Id/- HARUN-UL-RASHID, JUDGE.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.331 of 2003

Dated: September 19, 2007

JUDGMENT

Harun-Ul-Rashid, J.

This appeal was filed by the State of Kerala against the judgment and decree in LAR 34/1992 on the file of the Addl. Sub Court, Kottayam. The extent acquired in this case is 0.0610 hectares of land comprised in Sy.No.221/15 of block No.15 of Chirakkadavu village, Kanjirappally taluk. The property was acquired for the construction of post office building at Ponkunnam. S.4(1) notification was published on 26.6.1989. The land acquisition officer fixed the land value at the rate of Rs.7500/- per cent. Dissatisfied with the amount awarded by the land acquisition officer, the claimant approached the Reference Court.

2. In support of the claim for enhanced compensation, the claimant examined AWs.1 and 2 and marked Exts.A1 and A2. On the respondents' side Exts.R1 and R2 are marked. Exts.C1, C1(a) and C1(b) are marked as court exhibits.

3. The court below on appreciation of the facts entered a finding that the claimant is entitled for Rs.50,000/- per cent towards land value. In enhancing the compensation from Rs.7500/- to Rs.50,000/- per cent, the court below relied on Ext.A1 sale deed dated 24.10.1988. The extent of Ext.A1 property is 1 cent purchased by AW.2 for Rs.50,000-. Ext.C1 report and C1(a) plan submitted by the commissioner shows the lie of the

acquired property and the property covered by Ext.A1. According to the commissioner's report, both properties are lying at an equal distance from Kottayam - Kumali main road and both properties are comparable and similar in all respects.

4. The learned Government Pleader contended that Ext.A1 property is 1 cent in extent and the value of the said land does not reflect the real market value of the acquired land and that the court below erred in granting the same market value as that of Ext.A1 land. The learned Government Pleader also contended that there is neither any proper nor any reliable data to presume that the market value was increasing during 1986-1989. The extent of the acquired land is 15.067 cents. We have also noticed the fact that the extent of the property covered by Ext.A1 is only 1 cent of land. Nobody can dispute the fact that property having a small extent fetches higher price than property having larger area. In this case it has come out in evidence that Ext.A1 property was purchased for the purpose of using it for commercial purpose. Considering the extent as 1 cent and the use to which it was intended to be put, naturally the buyer will offer a higher price. Regarding the location, the two properties may be comparable, but considering the market value of both the properties, other considerations also shall weigh for fixing the market value of the acquired land. The very fact that Ext.A1 property is having only 1 cent of land will prove that both the properties are not comparable and similar in all

respects. Therefore, we are of the view that the acquired land will not fetch the rate of land value as in the case of Ext.A1 property. In the facts and circumstances, we are of the view that the centage value for the acquired land at Rs.35000/- per cent is fair and reasonable.

We allow the appeal partly. The judgment and decree under appeal is modified. The land value is re-fixed at Rs.35000/- per cent. The claimant will also be entitled to all eligible statutory benefits including interest on solatium. There will be no order as to costs.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.331 of 2003

JUDGMENT

19.9.2007